

Appl. No. 10/089,333
Atty. Docket No. CM2211MQL
Amtd. dated September 2, 2004
Reply to Office Action of March 2, 2004
Customer No. 27752

REMARKS

The first paragraph on page 4 of the Specification has been amended to eliminate a typographical error.

An Abstract on a separate sheet of paper is submitted with this Response.

Claims 1-11 are pending in the present Application. Claim 1 has been amended to correct a typographical error as well as to eliminate reference to "a second element". Claim 1 has further been amended to more particularly define the invention. Antecedent basis for the newly added claim limitation regarding "one phase of molecules..." may be found in the Specification in the last paragraph on page 3. Antecedent basis for the newly added claim limitations regarding [rmrm] and [rrrr] concentrations may be found in the Specification on pages 4 - 5.

Claim 4 has been amended to eliminate the need for antecedent basis for a "linear or branched polyolefinic homopolymer".

Claims 10 and 11 have been similarly amended to more particularly define the inventions described therein. Specifically, limitations regarding the [rmrm] and [rrrr] concentrations have been newly added. Antecedent basis for the newly added claim limitations may be found in the Specification on pages 4 - 5.

Rejection Under 35 U.S.C. §112

Claim 1 has been rejected under 35 U.S.C. §112, ¶2 because, "The scope of the limitation 'a second element' is unclear in claim 1." Claim 1 has been amended to omit reference to "a second element" in order to obviate the rejection.

Claim 4 has been rejected under 35 U.S.C. §112, ¶2, for failing to provide proper antecedent basis for "said linear or branched". The claim has been amended to eliminate the need for antecedent basis for this phrase in Claim 1.

Rejection Under 35 U.S.C. §102

Claims 1 and 4-11 have been rejected under 35 U.S.C. §102(b) as being anticipated by Seth, et al., U.S. Patent No. 5,888,607. As per the MPEP, in order for an anticipation rejection to stand, the cited reference must teach each and every element and limitation of the claimed invention. Applicants have amended independent claims 1, 10 and 11 to further limit the polyolefins described therein. Specifically, the polyolefins may now only include those

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with [rmm] pentad and [rrrr] pentad concentrations below 6%. Since Seth does not teach each and every element of newly amended independent claims 1, 10 and 11, the anticipation rejection based thereon can no longer stand. Moreover, the anticipation rejections of claims 4-9 which depend or ultimately depend from independent claim 1 also cannot stand. As such, Applicants respectfully request the withdrawal of the §102(b) rejections in light of Seth.

Rejection Under 35 U.S.C. §103

Claims 2-3 have been rejected under 35 U.S.C. §103(a) as being unpatentable over Seth, et al., U.S. Patent No. 5,888,607 in view of Siedle, et al., U.S. Patent No. 6,265,512. According to §2143 of the MPEP, to establish a *prima facie* case of obviousness, the cited reference must teach or suggest all the claim limitations. In light of the present amendments to the claims as discussed above, Seth does not teach or suggest all of the claim limitations of newly amended independent claim 1. It logically follows that Seth does not teach or suggest all of the claim limitations of claims 2-3, which depend or ultimately depend from newly amended claim 1. Siedle's alleged disclosure that, "materials comprising polypropylene exhibiting isotacticity below 60% of [mmmm] pentad are both stretchable and elastic" does not make up for Seth's deficiency relating to the [rmm] and [rrrr] pentad concentrations that are required in order to derive the particular advantages of the claimed invention. As such, Applicants respectfully request the withdrawal of the §103(a) rejection over Seth in view of Siedle.

Conclusion

Based on the foregoing, it is respectfully submitted that each of Applicants' remaining claims is in condition for allowance and favorable reconsideration is requested.

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This response is timely filed pursuant to the provisions of 37 C.F.R. §1.8 and M.P.E.P. §512, and no fee is believed due. However, if any additional charges are due, the Examiner is hereby authorized to deduct such charge from Deposit Account No. 16-2480 in the name of The Procter & Gamble Company.

Respectfully submitted,
HANKE, ET AL.

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